

**CITY OF WICHITA
CITY CODE
Title 30
NEGLECTED BUILDINGS**

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Section 30.01.010 Purpose.

Neglected buildings are a major cause and source of blight in both residential and non-residential neighborhoods, especially when the owner of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood. Neglected buildings and/or substandard or unkempt buildings discourage economic development and retard appreciation of property values. It is the responsibility of property owners to prevent buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety, and welfare. A neglected building that is not well maintained and managed can be the core and source of spreading blight.

Such buildings constitute a nuisance, and to adequately protect public health, safety and welfare, the establishment and enforcement of a registration system to monitor such buildings and to develop a means to decrease the number of neglected buildings within the city is necessary.

Section 30.01.020 Public Nuisance.

Neglected buildings shall constitute a public nuisance.

Section 30.01.030 Enforcement of chapter--Applicability of chapter.

The Superintendent of Central Inspection is designated to administer and enforce this chapter.

Section 30.01.040 Violation not exclusive.

Violations of this chapter are in addition to any other violations enumerated within the ordinances of the Code of the City of Wichita. This chapter in no way limits the penalties, actions or abatement procedures which may be taken by the City for a violation of this chapter which is also a violation of any other ordinance of the City or statute of the State of Kansas.

Section 30.01.050 Inspection of property.

(1) All officers authorized to enforce this chapter are hereby authorized and directed to make inspections to determine the condition of property located within the city, in order that he or she may perform his/her duty of safeguarding the welfare and safety of the general public and in order that he/she may ascertain that property as set forth in this title are properly maintained.

(2) Any officer or employee of the City charged with the enforcement of this title shall not, in the discharge of his/her duties, thereby render himself/herself liable personally. Pursuant to Section 2.62.130 of the Code of the City of Wichita, any suit brought against an officer or employee of the city because such act performed by him or her in the enforcement of any of the provisions of this title will be defended by the Department of Law until the final termination of the proceedings therein.

Section 30.01.060 Definitions.

(1) 'Boarded' means that some or all of the building's doors or windows have been covered with plywood, wood or metal sheeting, paneling or other similar materials, for the purpose of preventing entry into the building by persons, animals or the elements of weather.

(2) 'Building' means a building, accessory structure or other structure adapted to permanent or continuous occupancy or use for residential, public, institutional, business, industrial or storage purposes.

(3) 'City' means the City of Wichita, Kansas.

(4) 'Deterioration' means the condition or appearance of a building characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, excessive use or lack of maintenance.

(5) 'Dwelling' means any building, apartment building, mobile home or manufactured home which is wholly or partly used or intended to be used for living or sleeping by human occupants.

(6) 'Dwelling unit' means any room or group of rooms located within a building and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking, and eating.

(7) 'Good state of repair' means sound, stable, free of deterioration, and performing the function for which intended.

(8) 'Good working condition' means the item is fully operable for the use for which it was intended.

(9) 'Neglected building' means a 'Neglected occupied building' and a 'Neglected unoccupied building'.

(10) 'Neglected occupied building' means an occupied building in which one or more of the following events have occurred within the preceding eighteen months:

a. The building is the subject of two or more notices of violation of the provisions of Chapter 18, Chapter 20 or the provisions of this chapter of the Code of the City of Wichita and the owner has failed to demonstrate that due diligence is being exercised in abating the violation;

b. The building has been declared to be a criminal nuisance pursuant to K.S.A. 22-3901, *et seq.*;

c. The owner has failed to appear and a warrant has been issued in municipal court for a violation of Chapter 18, Chapter 20, or the provisions of this chapter of the Code of the City of Wichita; or

d. The owner has refused to accept service of notices of violations of Chapter 18, Chapter 20, or the provisions of this chapter of the Code of the City of Wichita.

e. The building has sustained substantial deterioration due to lack of maintenance.

(11) 'Neglected unoccupied building' means an unoccupied building (whether or not boarded) in which one or more of the following events have occurred:

- a. Within the last eighteen months, the property is the subject of two or more notices of violation of the provisions of Chapters 18, Chapter 20 or the provision of this chapter of the Code of the City of Wichita and the owner has failed to demonstrate that due diligence is being exercised in abating the violation;
- b. The building is unsecured;
- c. The building has sustained significant fire, wind or water damage and is uninhabitable.
- d. The building has been declared a criminal nuisance pursuant to K.S.A. 22-3901, *et. seq.*
- e. The building has been boarded for a period of more than ninety days.
- f. The building has sustained substantial deterioration due to lack of maintenance.
- g. The owner has failed to appear and a warrant has been issued in municipal court for a violation of Chapter 18, or Chapter 20, of the Code of the City of Wichita; or
- h. The owner has refused to accept service of notices of violations of Chapter 18, or Chapter 20, of the Code of the City of Wichita.

(12) 'Occupancy' the purpose for which a building or portion thereof is utilized or occupied.

(13) 'Operator' means any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

(14) 'Owner' means any person who is a holder of any legal or equitable interest in the premises, and alone or jointly or severally with others,

- a. Has record legal title to any dwelling or dwelling unit with or without accompanying actual possession thereof; or
- b. Has charge, care or control of any dwelling or dwelling unit which may include all persons who have an interest in a structure and any who are in possession or control thereof as owner or agent of the owner, contract purchaser, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

In the absence of substantial evidence to the contrary, records of the Sedgwick County Clerk's Office, Registrar of Deeds, certified copies of court records or judgments of any court, copies of lease agreements, contracts for deed, mortgages, tax records, rental agreements and other financial documents related to the property shall be conclusive evidence of the ownership of the property.

(15) 'Person,' as used in this chapter, means any individual, firm, association, company, syndicate, partnership, or other legal entity, or a natural person for the purposes of the occupancy standards hereof.

(16) 'Premises' shall mean a lot, plot or parcel of land including the buildings and structures located thereon.

(17) 'Resident Agent' means a natural person residing within Sedgwick County, Kansas, or a company or agency with a manager or agent who resides in Sedgwick County, Kansas, who is authorized to make or order repairs, to order or oversee service to dwellings and dwelling units, and to receive notices on behalf of the owner.

(18) 'Safe and Sanitary' for purposes of this chapter shall mean free from conditions that are dangerous or could cause injury and free from elements such as filth or bacteria that endanger health.

(19) 'Structurally Sound' means free of imperfections and/or deterioration that affect the intended use of a structure or the integrity of the footing, foundation, wall, roof, chimney, arch, window, door or porch/deck support systems.

(20) 'Superintendent of Central Inspection' means the superintendent or person in charge of the Office of Central Inspection of the City or his/her authorized representative.

(21) 'Supplied' means paid for, furnished or provided by or under the control of the owner or operator.

(22) 'Unoccupied building' means a building that is unattended and is not actively used as a place of residence or business, or is frequently open or unsecured so that unauthorized admittance may be gained without damaging any portion of the property.

(23) 'Unsecured' means that access to the building may be obtained through open, unlocked, broken or missing doors or windows of such building.

(24) 'Workmanlike manner' means installation or repair which meets the minimum recommended installation and maintenance requirements of the product manufacturer and meets all applicable code requirements.

Section 30.01.070 Duty to Register Neglected Building.

a. The owner or operator of a neglected building shall be required, after written notification from the Superintendent of Central Inspection, to apply for registration of such building with the Office of Central Inspection within thirty days of the date of notification from the Superintendent. Such notification shall be served on the owner or resident agent by personal service or by certified mail, return receipt requested. If the owner is a non-resident, such notice shall be sent by certified mail, return receipt requested, to the last known address of the owner.

b. The registration shall include the following information:

1. A description of the premises;
2. The names and addresses of the owner or owners;
3. The names and addresses of all known lienholders and all other parties with a legal or equitable ownership interest in the building;
4. The name of the resident agent designated to act on the behalf of the owner to accept legal processes and notices and to authorize repairs as required; and
5. If such building is unoccupied, the period of time the building is expected to remain unoccupied and/or a plan and timetable to comply with applicable city codes.

Section 30.01.080 Registration Fee.

A registration fee of twenty-five dollars (\$25.00) per building shall be collected, at the time of application, by the City Treasurer.

Section 30.01.090 Resident Agent.

(a) The owner or operator of any neglected building, which is subject to the registration requirements of Section 30.01.070, shall designate a resident agent for the building. Any owner who lives within Sedgwick County may designate himself or herself as the resident agent.

(b) The owner of any neglected building who lives outside of Sedgwick County shall name a resident agent who lives within or whose place of business is within Sedgwick County, Kansas.

(c) The designation of resident agent shall constitute an authorization by the owner to act on behalf of the owner with regard to all requirements under this chapter and may accept all notices, including all notices pursuant to the Code of the City of Wichita, all notices of proposed abatements and all compliance orders and administrative orders.

(d) The owner's designation of a resident agent shall not relieve the owner or operator of any obligation to comply with the provisions of this chapter or any other provisions of the Code of the City of Wichita or laws of the state of Kansas.

Section 30.01.105 Registration Penalty.

(a) Any owner or operator who fails to register a neglected building, as required by this chapter, may be liable for a civil penalty not to exceed Two hundred fifty dollars (\$250.00).

(b) If the building continues to meet the definition of a neglected building for a period of ninety (90) calendar days, and the owner fails or refuses to register such building, the Superintendent may continue to assess a penalty of two hundred fifty dollars (\$250.00) for each ninety (90) calendar day

period the building continues to be unregistered. At no time may the amount of the assessment exceeds one thousand dollars (\$1,000.00) per building in a calendar year.

(c) All penalties assessed shall be payable directly to the City Treasurer.

The Superintendent of Central Inspection shall develop policies and procedures for the implementation of this penalty.

Section 30.01.108 Procedures for Registration Penalty.

(a) Whenever the owner or operator of a neglected building does not register such building, a Notice of Registration Penalty may be issued to the owner or operator.

(b) A separate Notice of Registration Penalty shall be issued for each subsequent penalty that may be assessed pursuant to Section 30.01.105.

(c) The Notice of Registration Penalty shall be served upon the owner or operator by certified mail or personal service.

Section 30.01.110 Reinspection.

The Superintendent may periodically reinspect neglected buildings to ensure compliance of this chapter and all applicable court and administrative orders.

Section 30.01.120 Removal from Registration.

A neglected building shall be removed from the registration requirements of this chapter by the Superintendent of Central Inspection upon such building:

1. Being brought into compliance with all health and safety standards set forth in the codes of the City of Wichita;
2. Being removed or demolished by the owner;
3. Being abated or demolished by the City of Wichita, if such structure is unsafe or unfit for habitation.

Section 30.01.130 Registration nontransferable.

If the neglected building is required to be registered pursuant to Section 30.01.070, a new registration shall be required for each change of ownership of the building. The owner or operator of a neglected building which is registered with the office of Central Inspection pursuant to this Chapter, shall notify the office of Central Inspection within ten business days of the sale or transfer of any registered property.

Section 30.01.140 Duty to File Statement of Intent for Neglected Buildings.

(a) The Superintendent shall create and make available a form entitled 'Statement of Intent' to be completed by the owner, operator or resident agent of any neglected unoccupied building required to be registered pursuant to this chapter.

(b) The owner, operator or resident agent of a neglected unoccupied building shall complete the information required on the standard Statement of Intent and submit the Statement to the Office of Central Inspection within thirty (30) days of the date the Superintendent orders that the structure be registered.

(c) The Superintendent shall determine whether a submitted Statement of Intent is complete and may require an owner to provide more complete information.

(d) When a submitted Statement of Intent does not meet with the Superintendent's approval, the owner or registered agent shall, within ten business days, correct and resubmit the Statement of Intent.

(e) The Statement of Intent shall include information as to:

- (1) expected period that the building will remain unoccupied;
- (2) a plan for regular maintenance during the period that the building is unoccupied; and
- (3) a reasonable plan and time line for the lawful occupancy, rehabilitation or demolition of the building; and

- (4) any additional information required by the Superintendent.
- (f) The provisions of Section 30.01.140 shall not be applicable to neglected occupied buildings.

Section 30.01.150 Neglected Unoccupied Building Penalty.

(a) Any owner or operator who fails to submit a Statement of Intent or refuses to supplement or modify a Statement of Intent which does not meet with the approval of the Superintendent or otherwise comply with the requirements of Section 30.01.140, may be liable for a civil penalty not to exceed \$250.00.

(b) Any owner or operator of a neglected unoccupied building that remains as a neglected unoccupied building for a period of ninety (90) consecutive calendar days may be liable for a civil penalty in the amount of two hundred fifty dollars (\$250.00) per building, not to exceed one thousand (\$1,000.00) per calendar year unless:

(1) A Statement of Intent has been filed and approved by the Superintendent;
and

(2) One of the following applies:

(A) The owner is proceeding diligently in good faith to complete the repair or rehabilitation; or,

(B) The building is the subject of an active building permit for repair or rehabilitation; or

(C) The building is maintained in compliance with this chapter and is actively being offered for sale, lease or rent; or,

(D) The property owner can demonstrate that he or she made a diligent and good faith effort to implement the actions set forth in the approved Statement of Intent within the timeline contained within the Statement of Intent.

(c) If the building continues to meet the definition of neglected unoccupied building as provided in this chapter beyond the initial ninety (90) calendar days, and if the owner does not meet any of the exceptions set forth in this section, the Superintendent may continue to assess a penalty of two hundred fifty dollars (\$250.00) for each ninety (90) calendar day period the building continues to constitute a neglected unoccupied building. At no time may the amount of the assessment exceed one thousand dollars (\$1,000.00) per building in a calendar year.

(d) All penalties assessed shall be payable directly to the City Treasurer.

(e) The Superintendent of Central Inspection shall develop policies and procedures for the implementation of this penalty.

Section 30.01.160 Procedures for Neglected Unoccupied Building Penalty.

(a) Whenever the Superintendent determines that a building meets the definition of a neglected unoccupied building as defined by this chapter for a period of more than ninety (90) consecutive calendar days, and the owner does not meet any of the exceptions set forth in Section 30.01.150, a Notice of Neglected Unoccupied Building Penalty may be issued to the owner or operator.

(b) A separate Notice of Neglected Unoccupied Building Penalty shall be issued for each subsequent penalty that may be assessed pursuant to Section 30.01.150.

(c) The Notice of Neglected Unoccupied Building Penalty shall be served upon the owner or operator or his or her registered agent by certified mail or personal service.

Section 30.01.170 Appeals to Board of Code Standards and Appeals.

a. Appeals from the decision of the Superintendent of Central Inspection or his designee, of the registration requirements or the assessment of a registration or neglected building penalty, as provided for by this chapter, may be made by requesting, in writing, to the Superintendent of Central Inspection, within ten days after receiving such decision or penalty, a hearing before the Board of Code Standards and Appeals.

b. The appeal must be heard by the Board within forty-five days of receipt of the written request. The board may affirm, reverse or modify the penalty assessed.

c. Appeals from the decision of the board of code standards and appeals may be made to the city council by requesting in writing to the city clerk, within ten days after receiving such decision, a hearing before such city council. Such appeal shall be heard, with written notification as to time and place given such appellant, within forty-five days after receipt of the written request.

Section 30.01.180 Failure to Pay Penalties.

The failure of any person to pay the Registration or Neglected Building penalty as set forth in this chapter may result in the Superintendent using any legal means to recover the civil penalties assessed.